

SPECIAL COUNCIL MEETING

DECEMBER 12, 2012

The Special Meeting of the Council of the County of Kaua'i, was called to order by the Council Chair at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, December 12, 2012 at 8:36 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro

APPROVAL OF AGENDA.

Mr. Rapozo moved for approval of the agenda as circulated, seconded by Mr. Kagawa, and unanimously carried.

INTERVIEW:

FIRE COMMISSION:

Harold Brown – Term ending 12/31/2014

Chair Furfaro: Is this a partial term? It is full-term. On that note, I am going to suspend the rules and going to say welcome, Harold. Aloha and nice to have you with us.

There being no objections, the rules were suspended.

Mr. Brown: Thank you very much.

Chair Furfaro: I am going to give you the floor and give you an opportunity to cover some of your experiences with the Councilmembers, as well as a query, if you could answer us of how you became a candidate. Was it something you pursued? Was it something the Administration asked of you? But if you could start with some background, we would really appreciate it.

Mr. Brown: Chair, first of all, my name is Harold Daniel Brown. People that I have known for a long time, friends, know me as Dan Brown. I go by my full legal name at times, also. First of all, I would like to congratulate the Councilmembers who have been reelected and welcome the new

Councilmembers that have been sworn in. I look forward to working with you folks and supporting you in the next term and enough said on that. I am married to the formal Norma-Jean Segario from the Big Island, Kukuiahaele in Waipi'o Valley. She attended Honoka'a School. We live in Kapa'a and we came to Kaua'i in 1968. We have two (2) girls and a son, all adults, living here on Kaua'i, and five (5) grandchildren. I was a drywall contractor in 1968 when I came to Kaua'i to work for Richard Kimi on the Kaua'i Sands Hotel, which brought me here. After that was built, I stayed with my company here and in 1975, I was lucky enough to join the Kaua'i Fire Department. I served thirty (30) years in the Fire Department and I retired in December 31, 2004.

The Fire Department was something that I am very proud to have served in. I take pride in being a retired Fireman. I have been involved with Politics, as you might guess, supporting the different Administrations that I worked under. How I became involved or interested in serving on the Board of Commissions was member Firefighters have called me and asked me to serve. That is how I got interested in it. I figured with my experience here on Kaua'i, the people I know...being involved with Politics and it seemed logical to just be another step towards doing what I could do to support the community. I feel comfortable with the Fire Commission because of my experience with the Fire Department. I have had a lot of support, not only from the Firemen, retired and active, but also from the community at large. So when I asked, I submitted my name to the Commission and I am here now.

Chair Furfaro: Dan, I think I also know you as Dan.

Mr. Brown: Yes.

Chair Furfaro: Everybody knows me by Jay and my first legal name is Joseph so I have the same issue, Harold. At what level when you retired from the Fire Department...what was your role and what was your rank?

Mr. Brown: Okay, let us first start off as a Firefighter. I was then promoted to the Fire Apparatus Operator (F.A.O.) then at my last four (4) years of the Fire Department, I was the Captain. I was stationed twenty-six (26) years at Kapa'a and in my last four (4) years in the Department, I was stationed at Kalāheo. I have been to a number of leadership classes and different classes concerning the Fire Department, education wise. I am very proud with what the Fire Department has become today as far as...in my mind, they are more professional, they are more trained, and it is not a job, it is a profession. I thank the leadership with the Fire Chief that we have now. We have had good Fire Chiefs in the past but I think the Fire Chief that we have now is really professional and the job that he has been doing with his tenure in the Fire Department. I do not mind being a part of that. I understand this is strictly as an advisory role, as a

Commissioner, along with the advisory to the Administration to the Fire Chief and to the Council.

Chair Furfaro: Well, I also want to echo your comments, especially my years in the visitor industry along the Wailua corridor. The Kapa'a Station has always been very responsive and they have always put their best foot forward for the Department, especially working with emergencies in the visitor industry and responding to those hotels in that corridor. I concur with that. The Department is a little different now that we have a Fire Commission and the Chief is to also be commented in terms of managing the Fire Department's Operating Budget, which the Commission will have an opportunity to review and participate in. He is within the normal ranges of actually spending what was budgeted and yet, not going over so again, my compliment is there. That review would be in the Commissioner's hands as we approach the budget. Let me see if other Members have questions for you, Dan.

Mr. Kagawa: I do not have question, but just a comment. Dan, we have been friends for a few years now and been on the same side politically. I just want to congratulate you and thank you for serving and helping our Fire Department. I am sure you will get the votes. When we did a big sign holding in Hanamā'ulu, I remember you were saying that you were going to ask some of the Firemen to come out and hold signs with us for a particular candidate. We had a big crowd of Firemen so I know that the men respect and love you. I know you will do a good job for us.

Mr. Brown: Thank you, Ross.

Mr. Hooser: Good morning, Mr. Brown.

Mr. Brown: Good morning.

Mr. Hooser: I want to thank you for putting yourself forward to serve and what would you say are the biggest challenges? Every organization, even when they are doing a good job, will have challenges, problems, or places that need support. Looking at the Kaua'i Fire Department, where do you see those challenges might be and how well do you think the Commission might play in addressing those challenges?

Mr. Brown: I have not been involved with the Commission. I have been very careful not even to have conversations with them about the Fire Department ever since my name went up to be on the Commission. I am going to have to get my feet wet in meetings with them and just find out what is going on and what their view will be and what their advice is. I would look forward to working with the different members. I feel that I am able to work with anyone and

come to a sensible solution. As far as what is on the table right now, I really do not know. That would take me...like I said, I have to get my feet wet a little bit and listen to different concerns that different Commissioners have and also the public, and concerns the public might have. Then I could be better able to come to a conclusion and answer their questions.

Mr. Hooser: Okay. Thank you. Thank you, Chair.

Chair Furfaro: Other Members? Councilmember Nakamura.

Ms. Nakamura: Thank you, Dan for putting your name forward. I think one of the big issues confronting another Commission is just the power of that Commission over suspending and disciplining. I think the Fire Commission is in the same situation as the Police Commission. There has been a court ruling and we are not sure how this is eventually going to end up but I think the situation remains the same which is, "How does the Mayor work with the Commission in Personnel decisions relating to the Fire Chief?" One of the things that we had asked for was a communication protocol so that it is clear between the Mayor and the Commissions because I think several Commissions are in the same boat where you have the hiring and firing responsibilities. When situations come up, how will you communicate to each other? That is something I am hoping each of the Commissions will work on and have a dialogue with the Mayor to develop some kind of communication protocol. I am just hoping that is something you might ask for when you are on that Commission.

Mr. Brown: The role of the Mayor and the County of Kaua'i, in my opinion, he was elected by the people to lead the County, which is the same as the Councilmembers have been elected by the people to make the laws for the County. I believe Commissioners are appointed by the Mayor, approved by the Council, to act in Advisory Commissions even though it is stated that they are responsible...the Police and Fire Commission are responsible for the hiring and firing of the Chiefs. That is one thing but I think the Commissioners should be strictly in an Advisory position to the Mayor, to the Council, and to the Fire Chief. The Fire Chiefs or Police Chiefs, in this instance you have talked about—they were hired, in my opinion, for their expertise in running the Department. I do not have that expertise. I do not think that a Commissioner should put himself forward as knowing better than the Mayor or the Council in that regard. I agree with the Court ruling, as it has come down presently. What is going to happen in the future, I do not know. That is for the Court of Law to decide. Whatever they decide, we will abide by that.

Ms. Nakamura: Thank you for sharing your opinions.

Ms. Brown: Yes.

Chair Furfaro: Thank you very much.

Ms. Yukimura: Good morning, Dan.

Mr. Brown: Good morning, JoAnn.

Ms. Yukimura: Thank you for stepping up to the plate and for your summary of your background and history. You are right. The Fire Department is something that we are all proud of so to have good oversight and Advisory Commission is important to us. We are glad that you are here today, this morning. Following-up on Council Vice Chair's question about the relationship of the Department Heads who are appointed by Commissions to the Mayor, I appreciate your thoughtfulness about it. I think that was the thinking behind the writers of the Charter, in terms of the Mayor being the one who is accountable to the people and therefore, the one who has the final say in terms of what his Department Heads do. But there is a necessary back and forth of a Manager to the C.E.O. That is important and I think the ideas of some...certainly good communication and if that is not available, a protocol to help make it available would be good. I thank you for all of that. My question is as a Member of the Fire Department, as a Firefighter, it is sort of a different view than one of a Manager, like the Department Heads. There are issues of efficiency, ethics, and performance that are of a concern from a Manager's level. It seems to me that you will...the Commission will be looking at those issues from that kind of level in advising the Chief and I just wondered if you had any thoughts about those issues of efficiency, performance, ethics, or anything like that, or perhaps, as you were saying you wanted to get your "feet wet first." But you seem to have thought about these things, so I just wondered.

Mr. Brown: The Fire Department in the way that the direction they are going in now is a vast improvement as far as when I first came in at 1975, with the quality of the Firefighters. Not to say that the old Firefighters were not any good, they were very good. They put their heart and soul into it. But since then, we were able to get better equipment, better training, and better educated. The improvements are visible. As far as being a Commissioner and being able to advise the Mayor or the Fire Chief, I think anyone is open to advice and take advice. Sometimes it is good advice and sometimes it is not too good advice. But this is something to be hashed out in the Commission Meetings along with the Fire Chief, the Mayor, and the Council. Like I said, I think it is important to have a close working relationship, not only with the Mayor and with the Council, but also with the Fire Chief and also with the rank and file. The protection of life and property...I was always taught was the goal of the Fire Department, in that order. As long as you can perform those duties—life and property, and you can improve on that, I think we will always be going in the right direction and I think it is the Fire Department which would be proud to serve on and also to have, if you are just a

normal citizen, you have somebody watching your back. I do not know if that answers your question or if I got a little off base there.

Ms. Yukimura: Okay. Thank you. We look forward to your service on the Commission.

Mr. Brown: Thank you.

Chair Furfaro: Any more questions? Mr. Bynum.

Mr. Bynum: Yes. I just want to follow up on these things. First of all, thank you very much for your service. I very much appreciate your willingness to be part of the Fire Commission. I think it is a great Department and a great Commission. I look forward to you being a part of it. But there are these issues that are current regarding the interface between Department Heads that have Commissions or are elected, and the Mayor's Office. Clearly, there are issues that we need to resolve and I appreciate your comments on that. Because on one hand, most Personnel matters are going to be handled by the Chief, but best practices in Personnel, when an employee has a complaint is that they have multiple avenues to report that if they feel like the initial report is conflicted or is not being responded to. I think there are instances where employees, many of whom are Civil-Service people, covered by Civil-Service laws, may seek regress beyond those normal structures. That is best practice, right? If you do not feel like you are being responded to in this channel, we want to offer employees multiple channels to make sure that they get covered. On the other hand, the Commission in your instance has some very specific powers about hiring and firing unlike other Department Heads that are appointed by the Mayor. I think this has been a really important topic in all of the Commissions, particularly the ones where the Mayor's powers are somewhat limited. One avenue, as you mentioned, we have the first level of the Court. The Mayor said he would abide by the decision of the Court and now there is talk of appealing that. That could go on for a long time. I would hope that Commissions engage with the Fire Chief, Police Chief, whoever, and the Mayor, to see if there is a way to have understandings perhaps in writing or a memorandum about when circumstances arrive, how it goes, particularly if the Mayor is contemplating actions in the Senior Management of these Departments. My opinion is that the Commission should be immediately informed of that. We have provisions for emergency meetings when certain things arise. I hope all of the Commissions are in that circumstance; Police, Fire, Personnel, and the Prosecutor's Office, where the leader of the Offices is elected, yet still have Civil-Service employees and that interface with other County Departments. I am really looking for...I am hopeful that rather than a large legal battle, people sit down work out memorandums in agreement, work out protocols, and anticipate which we hope are unusual circumstances that arise. I just want to share those thoughts with you

because we started talking about that here. Obviously, you are a great candidate for the Fire Commission and I appreciate your willingness to serve.

Chair Furfaro: Members, anything more before I have a chat with Dan? Dan, first of all, I pretty much agree with the dialogue that came across from the three (3) Councilmembers. I would encourage after your confirmation vote, that there is a protocol put in place in writing for the Commissioners, as well as the Mayor's. It is something that you need to constantly work on improving those communications. We sometimes forget that the Mayor has a seat on the Police Commission. He has a seat on the Fire Commission. He has a seat on the Liquor Commission and the Planning Commission. He does not vote but he can participate in that dialogue. That should be framed in a written protocol policy and I would encourage with a successful appointment, that each Commission move forward in trying to frame that. Nobody went wrong because they had too much communication.

Mr. Brown: Absolutely.

Chair Furfaro: That is the bottom line. We will be voting on your confirmation at next week's Council Meeting on December 19th. I am very much going to support your appointment. I want to thank you for your time in the County and your willingness to step forward. Your talents will be put to good use on the Fire Commission. Paula's Office will be giving you the response on the 19th but that is when the vote will happen. I understand there are no more questions. Thank you very much for addressing the new Council on their first day and the season's best to you, Sir. Thank you very much.

Mr. Brown: Thank you, Chair Furfaro. Again, congratulations to all Councilmembers and I will be looking forward to your decision.

Chair Furfaro: Thank you.

Mr. Rapozo: Mr. Chair, I have a question.

Chair Furfaro: You had a question?

Mr. Rapozo: No, not for Mr. Brown. I did not have any questions for Mr. Brown. I have known him for many years and I am definitely going to support him. I did not need to ask him any questions. Thank you.

Chair Furfaro: Okay.

Mr. Rapozo: My question was for Paula because I heard her say that this is for a full term but it is my understanding that it is for a partial term.

Chair Furfaro: Yes. That is why I asked a question.

Mr. Rapozo: Right.

Chair Furfaro: As I looked at the dates, it does not line up with a three (3) year term. Paula, the rules are still suspended so could you come up, please.

PAULA MORIKAMI, Boards and Commissions Administrator: Good morning and congratulations. It is my understanding based on the Charter that if a person serves two (2) years or more, it is considered a full-term. If it is under two (2) years, it is a partial. His nomination would be replacing someone who has resigned. The term, you will notice, ends December 31, 2014. He will have served two (2) full years and he will be eligible to serve another three (3) years. Anything less than two (2) years is considered partial.

Mr. Rapozo: Correct, but the term that he is going to be serving is a partial term? He is only going to serve the unfilled term of the person that resigned, right?

Ms. Morikami: When we set the terms, because it had to be on a staggered basis...

Mr. Rapozo: Right.

Ms. Morikami: The term actually started a year ago. He is filling that term. Because it did not hit the two (2) years, it is considered a full term.

Mr. Rapozo: As far as his service time.

Ms. Morikami: Correct.

Mr. Rapozo: But the term does not move.

Ms. Morikami: Correct.

Mr. Rapozo: The term does not switch so he is filling an unfilled term.

Ms. Morikami: Yes.

Mr. Rapozo: Although he may not serve the full three (3) years, he is going to be charged with the full-term because he is serving the majority of the term.

Ms. Morikami: Correct.

Mr. Rapozo: Okay. That was my question. He is filling the unfilled term. That date does not move.

Ms. Morikami: Right.

Mr. Rapozo: Thank you.

Ms. Morikami: Thank you.

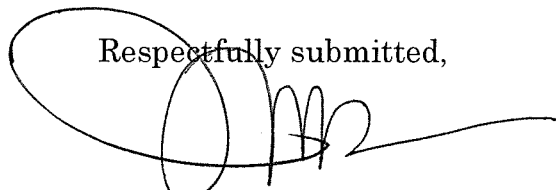
There being no objections, the meeting was called back to order and proceeded as follows:

Chair Furfaro: Thank you for your response and just to summarize it, any two (2) year or more appointment of the three (3) year Commission is considered a full term. On that note, again, Dan, I am going to close this Special Meeting.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 9:03 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jade K. Fountain-Tanigawa', with a large, stylized initial 'J' and a long horizontal flourish extending to the right.

JADE K. FOUNTAIN-TANIGAWA
Deputy County Clerk

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